



Ed Rolle
Director

Workers who pass three-part ABC Test are not 'employees'

Test guidelines found in state law

By Jim Waits

Contributions Division Chief

Is your worker an independent contractor?

ACA 11-10-208 of the Arkansas Employment Security Law defines "Employing Unit."

ACA 11-10-209 of the Arkansas Employment Security Law defines "Employer."

Question: What defines an employee?

Answer: The test found at ACA 11-10-210(e) of the Arkansas Employment Security Law, known in the agency as the ABC Test. This three-part test 1,2,3 was for years listed as ABC and is still referred to by old-timers as the ABC Test.

Is your worker an independent contractor?

Can he pass the ABC test?

11-10-210(e)

"Service performed by an individual for wages shall be deemed to be employment subject to this chapter irrespective of whether the common law relationship of master and servant exists, unless and until it is shown to the satisfaction of the director that:

(1) Such individual has been and will continue to be free from control and direction in connection with the performance of such service, both under his contract for the performance of service and in fact; and

(2) Such service is performed either outside the usual course of the business for which the service is performed or is performed outside of all the places of business of the enterprise for which the

See Test on back

New Automated Fraud Prevention System will protect UI Trust Fund, keep taxes lower

By Conley Meredith

ABPCO Project Sponsor

By the time this newsletter goes to press, the Office of State Procurement will have officially opened the bids submitted on the Request For Purchase to Automate Benefit Payment and Control Operations.

The award of the contract will bring a long awaited automated fraud prevention, detection, recovery and overpayments processing system to the Arkansas Employment Security Department that could save the Unemployment Insurance Trust Fund millions of dollars in overpayments because of fraud.

Each state is required by the U.S. Department of Labor to operate and maintain a UI Benefits program. Certain oversight activities are necessary to comply with federal standards.

One of the most serious problems facing Arkansas and all other states involved in the UI benefit process is preventing and detecting fraudulent UI overpayment claims. Unfortunately, since June 2000, the limited cross-match system used by BPC has not been operational.

To address this situation, and to expand its capacity to detect fraud early, a team of AESD personnel and technical advisors was formed in November 2002 to develop system requirements and specifications for the desired new Web-based cross-matching system.

In most cases involving fraud the

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claimant is actually employed and earning wages. The claimant files for UI benefits and either denies being employed or grossly underreports earnings.

The automated system is expected to automatically cross match claimant-provided data with new hire and other employer-provided information.

If the system works as expected, it has the potential to prevent or detect fraudulent claims early in the process and stop the payment of future fraudulent claims.

The ABPCO system should be a "win-win" for everyone.

- It will help protect the integrity of the Arkansas Unemployment Insurance Trust Fund by drastically reducing the number of fraudulent unemployment benefit claims that are paid.

- The automated cross-match system will help keep employer taxes at a lower rate.

- Finally, prevention and early detection will reduce the amount that is paid to claimants through fraud. That will make it easier for those claimants to repay those benefits that should not have been paid in the first place.

December 2003

Employer & Legislative Newsletter

AESD *update*

Arkansas Employment Security Department

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service is performed; and

(3) Such individual is customarily engaged in an independently established trade, occupation, profession, or business of the same nature as that involved in the service performed.”

You will notice it is written in the conjunctive. An independent contractor must meet all three parts of the test. If any one of the requirements is not met, the worker is an employee.

If you have a question, call the Status/Rate Unit at (501) 682-3268.

Can your community benefit from federal tax credits?



For more information,
go to our Web site at

www.accessarkansas.org/esd/ForEmployer/A_wotc.htm.

You can also call your local
Arkansas Workforce Center

or
1-866-330-9459.